

APPENDIX A

Public Hearing Certification

JENNIFER GRANHOLM
GOVERNOR



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

GLORIA J. JEFF
DIRECTOR

January 29, 2004

Mr. James J. Steele
Division Administrator
Federal Highway Administration
315 West Allegan, Room 211
Lansing, Michigan 48901

Dear Mr. Steele:

**Certification of the Public Hearing
Environmental Assessment and Section 4(f) Evaluation for the
US-12 Improvements in Pittsfield Township
Washtenaw County, Michigan**

This is to certify that a public hearing was held in accordance with Federal and State Public Involvement/Public Hearing Procedures. The hearing was held Wednesday, November 19, 2003, at the Pittsfield Township Office from 3:30 p.m. to 7:30 p.m. One hundred-fifty people attended, of whom 13 provided audio-recorded comments and 27 provided written comments.

Legal notices announcing the hearing were placed in the November 5, 2003, issue of the *Ann Arbor News* and the November 6 and 13 issues of the *Saline Reporter*. A copy of the notice is included in the "Legal Notice/Informational Bulletin" tab of this document. As mentioned in the notice, the official record was held open to include comments postmarked on or before December 20, 2003. We received 14 additional public comments via mail, fax and E-mail, as well as four letters from resource agencies.

A summary of the comments, transcript from the hearing and comments received are enclosed for your review and record.

Sincerely,

A handwritten signature in cursive script, reading "Susan P. Mortel".

Susan P. Mortel, Director
Bureau of Transportation Planning

Enclosures

US-12 Public Comments Summary

These comments, and the study team's response to them, will be incorporated into the Final Environmental Assessment (EA), which will be submitted to the Federal Highway Administration in Summer 2004. It is anticipated that the Final EA will be available for public review in Fall 2004 at the same locations used for reviewing the Draft EA and Public Hearing Transcript.

- 54 total public comments received
- 13 people spoke at public hearing
- 27 written comments deposited at public hearing
- 11 E-mails received
- 3 individual comments provided via fax and U.S. mail
- 4 letters received from resource agencies

Tabulated comments:

- 20 support Preferred Alternative
- 5 wants project done as soon as possible
- 4 wants a better approach to the US-23/US-12 interchange (loop ramps), with no left-turns and traffic signals
- 2 supports Alternative 1N
- 2 questioned the choice of the combined four-lane and five-lane recommended alternative over five-lane alternative that shows fewer impacts
- 2 want noise walls for noise abatement at Hickory Pointe subdivision
- 2 said make eastbound US-12 to northbound US-23 a right turn; this is the way the US-12 at Willis Road interchange is and there is less traffic

Additional single comments:

- Job well done
- Great job throughout the process of keeping citizens informed and listening to input and compromising
- Signal needed at Textile Road to improve dangerous situation
- Plan well thought out
- Plan is very workable with a minimum of property loss
- Concerned with how much of his land (five acres) on US-12 will be needed to make the project work
- Prefer a non-boulevard solution and US-23/US-12 interchange and bridge should be first priority
- Dismayed with the Preferred Alternative, feel the designers didn't truly address the Platt Road intersection, the entrance to Warner Creek, the acoustic levels, air quality and airborne dirt

- People must come first over a few endangered birds; you have lost your perspective.
- Please consider buyouts on both sides of the roadway.
- Feels state is forcing him out of his home over building in wetlands.
- The intersection of Platt Road should be perpendicular and the entrance to Warner Creek should have a traffic light.
- Additional cost of boulevard section not of sufficient benefit.
- Would like boulevard for the entire length, but know that is impractical.
- Wants new exit for Textile Road to handle new apartments and condos.
- Concerned over Textile Road between US-12 and Platt. Make it a dead end with two-way traffic from Platt, but no exit from US-12 west.
- There is too much happening in a short stretch of light controlled traffic from Arbor Glen to Wesley Gardens.
- Very concerned with rise in noise level on Campbell Road and lack of mitigation in the plan.
- Rolling Hills Subdivision is concerned about the impact that the proposed US-12 expansion will have on the homeowners association's berm, which the association purchased as a sound barrier to existing traffic. The project will increase traffic flow and reduce the berm. Please consider a reduction in the 84' proposed boulevard running in front of our subdivision.
- See no significant reasons for straightening the roadbed between Fosdick and Platt other than to benefit Warner Creek. There have been no significant accidents in this location in the past seven years.
- Why are there no paved shoulders on Michigan from Munger to Platt, which help with road stability, emergency parking, water runoff and piling snow.
- Urges retaining Textile Road diagonal.
- Reduce number of stoplights at Michigan and US-23 interchange.
- Can hill just west of US-23 be leveled? Can't see turning traffic ahead.
- Wants US-12 to stay two lanes except for turn lanes, with reduced 45 mph speeds.
- Want a berm by Warner Creek to lessen the impact.
- Great plan! Minimal to positive impact on Warner Creek.
- Slow is good.
- Want turn lane at Platt Road, only one car gets through with each signal.
- Want bike path included.
- Feels the added lanes will increase traffic volumes when it is a problem already with egressing US-12 from Rolling Hills Subdivision due to poor signal timing.
- Quality of life suffers every day this project is delayed.
- Speed limits should be lower.
- Want entire profile to be narrower to impact homes and businesses less.
- Coordinate detention basin at Crane and Michigan with Pittsfield Township to drain properties north of Michigan.
- Straightening curb at Campbell is much better than 1N alternative.

- Concerned that speeds will go up with more lanes, even with a lower posted speed limit.
- Suggest more non-motorized aspects.
- Wants new traffic lights at Crane and Mungar Roads.
- Intersection improvements and US-34 access are great.
- Realignment of the interchange/exit ramps will cause huge backups.
- The modifications to interchange do not go far enough to modernize it.
- Want east part of project done with interchange improvements.
- Want interim measures now to alleviate traffic problems with US-12/US-23 interchange, including vehicle activated lights.
- Preferred Alternative is a novel approach combining the attributes of a 4-lane urban boulevard and a 5-lane urban arterial.
- Resident of Saline Meadows (between Warner and Fosdick Roads) is very concerned about difficulty with making a left-turn off US-12 safely; wants a left-turn lane and improved lighting.
- Question the need for preserving a habitat for Indiana bats over the safety needs of motorists.
- Want MDOT to include replacement of trees and other native species.
- Prefer speed limit reductions to adding lanes.
- Suggested Crane Road northward extension should be realigned 100 yards to avoid grouping of 50+ year-old oak and maple trees. One wants methodology behind preferred alternative.
- Want a streetlight installed on US-12 at Wellesley Boulevard.
- Want explanation of what the MDOT standard is for roadway alignment relevant to straightening US-12 at Campbell.
- Concerned with lack of consistent noise analysis.
- Concerned that the community impacts are only stated for planned communities south of the road.
- Concerned that the Preferred Alternative requires more residential and business displacement than Alternative 1.
- Question use of term "more balanced solution" in support for Preferred Alternative.
- Concerned that the Preferred Alternative will impact a highly valued section of land (Pittsfield Preserve) as noted in the report.
- Concerned that the term "feasible and prudent" is not defined relevant to the Section 4(f) evaluation in the report.
- Concerned there is absence of analysis of the alternatives relevant to Section 4(f), particularly the option of lower speeds versus straightening the curve at Campbell Road.
- Want to see analysis of alternative alignments relative to the Harwood house and why they were not considered feasible or prudent.
- Claims there is not enough information and analysis to substantiate report's conclusion.
- Make sure improvements reflect city's "Gateway Plan" involving a narrow-grassed boulevard.

Agency Comments:

- Make sure improvements reflect city's "Gateway Plan" involving a narrow grassed boulevard.
- The five-lane urban section should match closely the geometry of the existing five-lane section ending on the east line of the Visteon Plant.
- The five-lane urban section should extend approximately 750 feet east of the centerline of Industrial Drive at the south city limit where the transition from five-lane urban to four-lane urban should begin.
- Part of the five-lane urban section west of Industrial Drive should have a curbed island, rather than a center turn lane.
- Design Sauk Trail Business Park so there is no driveway access on the south side of US-12 from Industrial Drive to the entrance to Saline Plaza.
- Adopt MDOT's Access Management Plan along US-12, including the curbed boulevard segment west of Industrial Drive.
- Include the City of Saline in the design phase to ensure city planning and transportation goals are addressed.
- Potential human health concerns from anticipated construction-related impacts appear to have been adequately addressed.
- Commends MDOT for the clear documentation of efforts to minimize impacts to environmental and historical/cultural resources.
- Include more rationale on selection of Preferred Alternative, particularly why the five-lane urban arterial/four-lane urban boulevard was selected for only 1.5 miles versus the entire 6.5 miles.
- Address how the Preferred Alternative fits into Pittsfield Township's Access Management Plan.
- Additional detailed information is needed regarding vegetative mitigation to filter stormwater, especially along the four-lane urban boulevard section where inside curb and gutter are not included.
- Continue to work closely with county drain commissioner on impacts to Pittsfield No. 5, Koch-Warner and Hertler-Nissley drains.
- Plans should incorporate Pittsfield Township's plans for a new public safety building near the intersection of Campbell Road and US-12.
- Study should address a long-term solution to congestion involving Morgan, Textile, Bemis, Willis or Ellsworth Roads, and possibly a need to access or overpass US-23.
- Recommend a raised median with curb and gutter for four-lane urban boulevard sections.

Michigan Department of Transportation
Public Hearing Notice
US-12 Improvement Study, Pittsfield Township

The Michigan Department of Transportation (MDOT) is holding a public hearing on the Environmental Assessment and Section 4(f) Evaluation for US-12 improvements in Pittsfield Township, Washtenaw County, Michigan. This hearing is being held in accordance with federal and state Public Involvement / Public Hearings Procedures.

The public hearing will be held at the Pittsfield Township Office's Morris Hall, 6201 W. Michigan Ave., Ann Arbor. This location is handicapped accessible. To allow easier participation for those in the study area, the public hearing will take place continuously from 3:30 to 7:30 PM on Wednesday, November 19, 2003.

The hearing will provide an opportunity for the public to comment for the record on the proposed widening of 6.5 miles of US-12 from the City of Saline to Munger Road west of I-94. The project would improve traffic operations and motorist safety by upgrading the major arterial roadway. Since a public meeting in November 2002, two practical alternatives were evaluated to select a Preferred Alternative by comparing their respective impacts to traffic, engineering, land use, wetlands, woodlands, streams, historic properties, recreational properties and other socioeconomic and environmental resources. Further input from the public, local stakeholders, government officials, and state/federal resource agencies, has guided the selection and design of the Preferred Alternative, which will be presented at the public hearing.

Brochures summarizing the Environmental Assessment and a review copy of the EA are available at: Pittsfield Township Office, 6201 W. Michigan Ave. (US-12), Ann Arbor; Saline District Library, 555 N. Maple Street, Saline; Ypsilanti District Library, 5577 Whittaker Rd., Ypsilanti; Washtenaw County Library, 4135 Washtenaw Ave., Ann Arbor; Washtenaw Area Transportation Study Office, 705 North Zeeb Rd., 2nd Floor, Ann Arbor; Michigan Department of Transportation (MDOT) Brighton TSC, 10321 E. Grand River, Suite 500, Brighton; MDOT University Region, 4701 W. Michigan Ave., Jackson, and MDOT Bureau of Transportation Planning, 425 Ottawa St., Lansing.

The public hearing for this project will be conducted using an "open forum" style to allow the public to gather information on the project on a one-to-one basis. It also makes it easier for citizens to become familiar with the alternatives and express their concerns. The hearing room will be set up so that participants may stop by anytime during the scheduled hours. Participants may view displays and talk with MDOT representatives and consultants regarding environmental, engineering and design, real estate, and other issues.

A court reporter will be available for those persons who would like to make a statement or comment about the project and have it included in the transcript of this public hearing. Citizens also can fill out a comment form and deposit it into the comment boxes at the public hearing site. Comments also can be mailed, faxed, or e-mailed to: Robert H. Parsons, Public Hearings Officer, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, Michigan 48909; Fax: (517) 373-9255; or email: parsonsb@michigan.gov. Comments must be postmarked on or before December 20, 2003, to be included in the transcript of the hearing. For more information on this public hearing or to request a copy of the Environmental Assessment for the US-12 Improvement Study, write to the above address or call (517) 373-9534.

With an advance notice of seven days, MDOT can make most of the materials for this hearing available in alternative formats such as large print or audiotape, and can make accommodations for sign language interpretation and/or assisted listening devices. Please call (517) 373-9534 to request accommodations.

APPENDIX B

Harwood Farmstead Mitigation Documentation

Janice O. Harwood
122 Live Oaks Way & Salinas, CA 93908
Phone: 831.455.2995 & E-mail: janice.harwood@earthlink.net

July 19, 2004

Mr. Matt W. Webb, AICP
Special Projects Coordinator
Project Planning Division
Department of Transportation
P.O. Box 30050
Lansing, MI 48909

Dear Mr. Webb:

This is in reply to your letter dated June 23, 2004. We appreciate the offer that you have made regarding the moving of the Harwood Farmstead. However, after very careful consideration of all the factors and ramifications in regards to the proposal to move the Harwood Farmstead, my brother and I have decided against it. Since MDOT does not have either the money or approval to build the road anytime in the near future, we feel it is premature to be making the decision to move the house at this time.

Moving a historic building is the least desirable method of preservation. Knowing that the SOHP and the Freedom Trail Commission has an interest in the property, we recognize that the major historical significance is that it was used in the Underground Railroad. Our position is that the historical integrity would be too greatly compromised if it were moved from where my great-great grandfather built it. We feel that it would be more meaningful to future generations for it to remain where it is.

Additionally, as you know, we want to maintain at least 20 acres of the original farm to be continuously occupied by a Harwood family member, a decision we made even several years before the rest of the property north of US 12 was sold. Although, you have proposed to give us additional property south of the new road when it is built to make a total of twenty acres, it would not be contiguous to the remaining farmstead and actually not very useful to us as farmland.

We greatly appreciate the interest and concern expressed by MDOT in preserving the Farmstead while also trying to provide for better transportation for the community. We know a lot of effort has gone into the planning process, however we feel that we cannot accept your current offer.

Sincerely,


Janice O. Harwood



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

GLORIA J. JEFFREY
DIRECTOR

June 23, 2004

Ms. Janice O. Harwood
122 Live Oaks Way
Salinas, California 93908

Re: Harwood Farmstead Mitigation Questions

Dear Ms. Harwood:

Thank you again for taking the time to meet with myself and other members of the US-12 Improvement Study team last month. In response to the questions you and your brother raised at our May 24, 2004 meeting, the team has investigated those issues and have the following responses:

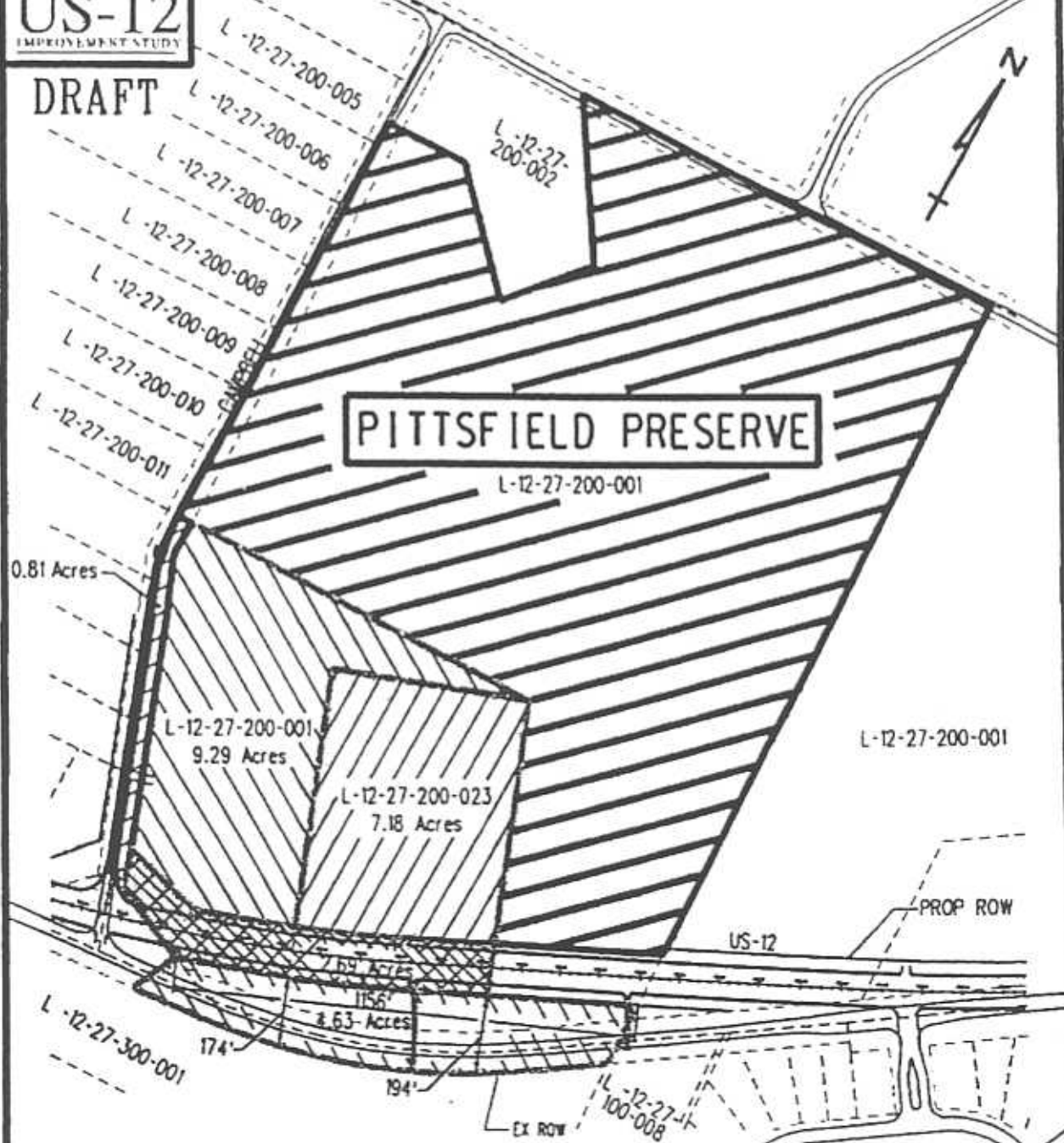
1. **Dimensions of the excess property:** Attached is an exhibit which shows the dimensions of the remaining property south of a relocated US-12 alternative. Generally speaking, this new parcel south of the relocated US-12 roadway would consist of approximately 4.63 acres (when the existing US-12 ROW is combined with your property north of the existing US-12 roadway). The width of the property would be approximately 194' deep at your east property line and 174' deep further west.

Please note as discussed at our May 24th meeting, portions of this property, which encompass the existing US-12 alignment, would not be made available to your family until after the relocated section of US-12 was constructed. Currently, MDOT has no long-range commitment beyond the completion of the US-12 Improvement Study, therefore no date can be provided as to when construction would commence or be completed.

2. **Providing a minimum of 20 acres north of US-12:** After our meeting, members of the US-12 Improvement Team met with representatives of the Federal Highway Administration (FHWA) regarding your suggestion to approach Pittsfield Township and request that they donate four acres from the Pittsfield Preserve property to assure 20 acres remains north of US-12. FHWA is the federal agency that provides final approval on the environmental assessment as well as the agency that must approve all Section 4(f) mitigation measures. After consulting with FHWA, it is their opinion that even if Pittsfield Township were to donate approximately four acres of the Pittsfield Preserve property to the Harwood family, this donation would still constitute a Section 4(f) impact. Federal law permits the use of publicly owned park land for transportation projects only when it has been determined that there is no feasible and prudent alternative to such use, and the project includes all possible planning to minimize harm



DRAFT



NOTE: AREAS APPROXIMATED. GROUND SURVEY
NEEDED TO ESTABLISH MORE PRECISE ACREAGES.

PARSONS

ACREAGE EXHIBIT

SCALE: 1"=400'

5/21/04

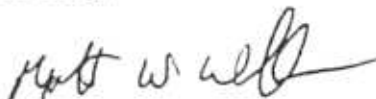
Fig. 1.0

Ms. Janice O. Harwood
Page 3
June 24, 2004

I hope the aforementioned responses provide adequate clarification to your questions. MDOT will need a response in writing from your family as to whether or not the general terms of this Section 4(f) mitigation project will be acceptable by July 30, 2004. If the terms of mitigation are not agreeable, MDOT will likely have to refine the Preferred Alternative and re-evaluate Practical Alternative 1 (five-lane cross-section) in front of your property.

If you have any questions on MDOT's proposed mitigation or the US-12 Improvement Study, please contact me at 517-335-4627. The US-12 Improvement Study Team looks forward to your response.

Sincerely,



Matt W. Webb, AICP
Special Projects Coordinator,
Project Planning Division

Enclosure

BTP:PPD:MW:lb

cc: Albert Harwood
K. Wallace
J. Reid
J. Simon
L. Baldwin



JENNIFER GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

GLORIA J. JEFF
DIRECTOR

March 24, 2004

Ms. Janice O. Harwood
122 Live Oaks Way
Salinas, California 93908

Dear Ms. Harwood,

Harwood Farmstead Mitigation Proposal

I want to thank you for your recent e-mail message and the explanation of your family's position on the preferred alternative for the US-12 Improvement Study between the east city limits of Saline and Munger Road. I understand your family's concerns and your desire to maintain the Harwood heritage in Pittsfield Township. In response to your concerns and your request to develop a formal proposal outlining proposed mitigation opportunities, the Michigan Department of Transportation (MDOT) has developed the following mitigation plan.

As presented to you at a September 2003 meeting in Cedar, Michigan and outlined in the October 2003 Environmental Assessment, the preferred alternative associated with the US-12 Improvement Study will require the relocation of the historic Harwood Farmstead and the acquisition of approximately 4.7 acres of your property. MDOT understands that the farmstead carries considerable significance on local, state and national levels, and to your family. For these reasons, MDOT proposes the following mitigation to address the impacts on your property:

1. Documentation: MDOT will coordinate and complete a full historical recordation of the Harwood Farmstead, including discussions of the architectural elements of the farm, the family story, and their relationship to the region, community, and the Underground Railroad.

Documentation will include a Phase I archaeological survey of the courtyard area between the house and the outbuildings, and as necessary, Phase II and Phase III surveys. Further, a Phase I archaeological survey will be conducted in the basement of the house, with Phase II and III surveys as necessary. It should be noted here that MDOT's mitigation strategy would be for recovery and not preservation in place of artifacts. Any artifacts uncovered during the mitigation and construction phases would be the property of the State of Michigan. However, it is possible that artifacts that have family

Ms. Janice O. Harwood

Page 2

March 24, 2004

significance could be turned over to the Harwood family through negotiation with the Office of the State Archaeologist.

A written report would be produced covering the property history, including the Harwood family and their contributions to the development of the area, the Harwood's long tenure in the community, and the Harwood's contribution to the Underground Railroad (including the documentable relationship with the Aray family and others).

Documentation will include the development of accurate plan and elevation views of the basement by a state registered archaeologist. These views will be used to plan and manage archaeological activities but will also be used to plan and manage the careful dismantling, moving, and reconstruction of the basement.

2. Relocation: MDOT will coordinate and fund the relocation of the Harwood House, including the stone basement, and related outbuildings to a location approximately 150' to 200' north of the present location. This will also include the relocation of affected utilities, and if necessary, the removal of an existing abandoned underground fuel tank.

3. Restoration: MDOT will coordinate and fund the restoration of the exterior of the Harwood House, including roof(s), siding, doors, and windows. The restoration plan and design will require approval of the State Historic Preservation Office (SHPO). All work will be completed in accordance with Secretary of the Interior Standards and will ideally reflect the period of significance for the property, which would span the period of the Underground Railroad. The earliest documented view MDOT is aware of is included in the 1874 F.W. Beers atlas, which may be used to guide design decisions.

MDOT's commitment would also include coordination and funding of the re-creation of the landscape design for the front yard and immediate grounds.

4. Historic Marker: MDOT will provide a State of Michigan marker for the site, with your approval. The sign text, in accordance with Michigan Department of History Arts and Library policy, will be written by the SHPO, although your input will be welcomed.

5. Right-of-Way Acquisition: MDOT will commit to purchasing approximately 4.7 acres of right-of-way (ROW) associated with the US-12 Improvement Study's preferred alternative. This needed ROW would be acquired from both the

Ms. Janice O. Harwood

Page 3

March 24, 2004

Harwood Farmstead parcel and the parcel immediately to the west between Campbell Road and the Harwood Farmstead. MDOT will offer you fair market value for this property based upon an independent fee appraisal.

While not tied to this formal mitigation proposal, MDOT will also be willing to assist you, if you would like, in the coordination of initial discussions with the appropriate public stakeholders (i.e., the Washtenaw County Historic District Commission, Michigan Freedom Trail Commission and/or the African American Cultural & Historical Museum) for the development of agreements relative to the sale of development rights and/or living trust(s).

MDOT is committed to implementing this mitigation plan by August 2004 and completing all mitigation activities within one calendar year. This schedule is contingent upon MDOT reaching consensus with the SHPO on a Memorandum of Agreement for all proposed mitigation at the Harwood Farmstead. This schedule is also contingent upon MDOT obtaining environmental clearance from the Federal Highway Administration for the preferred Alternative identified within the October 2003 Environmental Assessment.

The department is hopeful you will be agreeable to the aforementioned mitigation measures. If these terms of mitigation are not acceptable, MDOT will likely have to refine the preferred alternative and re-evaluate Practical Alternative 1 (five-lane cross-section) in front of your property. By returning to the earlier version of Practical Alternative 1, US-12 improvements would follow the existing alignment. An additional fifteen feet of right-of-way (ROW) would be required on the north side of US-12; however no direct impacts on the Harwood house itself will occur. This alternative will result in minor noise increases and will bring the road closer to the Harwood Farmstead which will likely impact comfort levels for residents of the house a reduced quality of life. For Alternative 1, MDOT's mitigation requirements, based on limited impacts, would likely not extend beyond the restoration of landscaping in the front yard.

Additionally, Practical Alternative 1 will likely have considerable impacts to the development of the proposed housing subdivision on the south side of US-12 on Harwood property. Based on the current site plan under review with Pittsfield Township, Practical Alternative 1 has the potential to impact numerous lots within this proposed subdivision.

Your agreement now would be an important piece in MDOT obtaining environmental clearance for the US-12 Improvement Study and being able to mitigate future impacts to the Harwood Farmstead in a timely manner. In order for MDOT to meet the aforementioned schedule, the department would appreciate a response to this mitigation proposal by April 30, 2004. If you have any questions on MDOT's proposed mitigation

Ms. Janice O. Harwood
Page 4
March 24, 2004

or the US-12 Improvement Study, please contact Matt Webb, US-12 Improvement Study project manger at (517) 335-4627 or myself at (517) 241-2702. We look forward to your response.

Sincerely,

Lloyd Baldwin,
Historian
Project Planning Division
Environmental Section

Cc: Alfred Harwood
Kelby Wallace
Matt Webb
Lori Noblet
Ronald Deverman
James Robertson

APPENDIX C
Woodland Mitigation Site
Resource Agency Coordination Meeting
Minutes

US-12 Improvement Study
MDOT-Resource Agency Coordination Meeting
Meeting Minutes

Meeting Date: August 11, 2004
Meeting Location: Pittsfield Charter Township, Ann Arbor
Meeting Time: 9:00 – 11:45 a.m.

Meeting Attendees:

Neal Billetdeaux, JJR	Lloyd Baldwin, MDOT	Steve Bannasch, PTG
Kathy Kowal, USEPA	Jack Dingledine, US Fish & Wildlife	Matt Webb, MDOT
Kelby Wallace, MDOT	Robert Owens, MDOT	Regine Beauboeuf, PTG
Lori Noblet, MDOT	John Wiesner, FHWA	Abdelmoez Abdalla, FHWA
Alex Sanchez, DEQ	Kellen MacPhee, DEQ	

1. Meeting began at 9:10 with introductions. M. Webb gave an overview of the purpose of the meeting which was to review changes made to the US-12 Improvement Study preferred alternative since the November 2003 public hearing.
2. M. Webb gave a brief overview of MDOT's activities which have occurred since the November 2003 public hearing which have included: preparing responses to comments, refining the preferred alternative based on comments received, and negotiating a Section 4(f) mitigation agreement for the Harwood Farmstead.

Since the public hearing, MDOT has held several meetings with the Harwood family, and presented various mitigation options. L. Baldwin gave an overview of MDOT's final mitigation offer to the Harwood family which included, relocation of the farmstead and associated outbuildings to the north approximately 200 feet and the full restoration of the exterior of the house. On July 19, 2004 the Harwood family formally rejected MDOT's final mitigation offer. Following the Harwood family's rejection, MDOT re-evaluated the preferred and practical alternatives to assess if the impacts on the Harwood family could be minimized.

3. *Description of revised preferred alternative:* Following the Harwood's rejection of MDOT's final mitigation offer, M. Webb stated MDOT developed a revised alternative which seeks to minimize impacts on the Harwood farmstead. The revised alternative generally follows the existing US-12 alignment from Warner Road to just east of the Harwood farmstead. East of the Harwood farmstead, the alternative shifts to the north of the existing alignment. This shift provides room to incorporate an earthen berm in front of the Warner Creek Subdivision. The revised alternative shifts south and ties into the existing US-12 alignment just west of the existing US-12/Platt Road intersection.

The proposed ROW along the revised alternative is 110 feet compared to the preferred alternative ROW which was 150 feet. The revised preferred alternative will also require a design exception be granted by FHWA for removal of the 10' paved shoulders between Platt and Warner Roads.

Questions were raised as to why the revised preferred alternative shifted so far north into the woodlot. S. Bannasch explained that in order to minimize impacts on the Harwood farmstead, the geometrics associated with the revised preferred alternative were required to be pushed to the north to get the needed tangents.

2. *Impacts of the revised preferred alternative:* L. Baldwin noted that SHPO would endorse a determination of no adverse impact to the Harwood property. Their position would be in the form of a "Conditional Letter of No Adverse Impact." This will require coordination with SHPO during the design phase. A table was distributed which highlighted the impacts of the revised preferred alternative. In general M. Webb stated that the impacts are reduced for the preferred alternative, except for woodlands and wetlands. Woodland impacts increased from 0.7 acres to 3.4 acres, and wetland impacts increased from 4.4 acres to 5.4 acres.

K. Kowal questioned the type of habitat within the woodlot which MDOT would be impacting. N. Billetdeaux stated that a majority of the woodlot was mature woodlands with a diverse flora. N. Billetdeaux continued by stating that the increased wetland impacts were about half forested wetland and about half scrub-shrub which is associated with the roadside drainage along the existing US-12 alignment. N. Billetdeaux also stated that 0.1 acres of the increase in wetland impacts is attributable to the realignment and straightening of the US-12/Fosdick Road intersection. This was a requested improvement identified out of the public hearing and meeting with stakeholders.

K. Kowal stated she would like to see MDOT minimize possible impacts to the overall woodlot. She suggested the 12 acres fronting US-12 on the north side of the road could be purchased as mitigation for woodland impacts. This would also serve as an overall buffer between the revised preferred alternative and the potentially suitable habitat for the Indiana Bat further to the north. Another option for mitigation which was discussed was the replacement of trees at a site on the Pittsfield Preserve property. K. Kowal stated EPA's recommended replacement ratio for woodlands is 1:1.

B. Owens requested clarification as to whether EPA was requesting forested wetland replacement, woodland replacement or both. B. Owens stated that for years MDOT has attempted to mitigate forested wetlands. However, MDOT has had little success in recreating these types of wetlands as well as getting credit from the DEQ because of the number of years it takes to recreate such an environment. All agreed this was a larger issue and that for the revised alternative forested wetland impacts would be mitigated at the mitigation site identified within the EA. It was the position of both K. Kowal and J. Dingledine that the project provides mitigation in some capacity for impacts to upland woodlands.

J. Dingledine questioned how the documentation would occur for this revised alternative? Would a supplemental EA be developed? L. Noblet stated that the documentation would be included within the supporting documentation for the request for a FONSI. J. Dingledine stated that MDOT should review the Section 7 "No Effect Determination" and assess if this is still an appropriate classification or if it should be modified to a "May Effect Determination". The US Fish & Wildlife Service will be reviewing this determination in light of the proximity of the revised alternative to the highly suitable habitat for the Indiana Bat.

J. Dingledine stated that this alternative is a good reason why additional ecological documentation should be included within NEPA documents. K. Kowal concurred. L. Noblet stated that the level of documentation for this project is more than what a typical EA would have based on FHWA's guidelines. She continued by stating that the level of documentation which was being referenced is more typical for EIS's and not EA's or CE's.

M. Webb requested clarification as to what woodland mitigation was most desirable to the resource agencies? K. Kowal stated the most desirable option would be to have MDOT purchase 12 acres to serve as a buffer. If 12 acres could not be acquired then the next most desirable option is to purchase 3.4 acres from the existing woodlot.

M. Webb stated that the pace of development in Pittsfield Township may preclude purchasing of 3.4 acres from the existing woodlot and that a contingency plan should be developed to account for such a scenario that the current parcels along the US-12 corridor may be developed by the time MDOT has funds to purchase that ROW. K. Kowal stated that the replacement of 3.4 acres at an off-site location, preferably near the existing woodlot would be a suitable option.

B. Owens requested clarification as to whether or not MDOT could mitigate the 3.4 acres of woodlot on the wetland mitigation site MDOT owns in Bridgewater Township. The resource agencies concurred that this would be a feasible option.

J. Dingleline questioned when MDOT expects to move to construction on this project. M. Webb and K. Wallace stated that MDOT has no long-term funding commitment identified for this project. Only the environmental clearance phase has been committed through completion. Therefore at best, MDOT is likely five to ten years from construction. J. Dingleline stated that a general mitigation strategy should be developed within the supporting documentation for the request for a FONSI and that the final mitigation strategy should be finalized during the design phase of the project.

J. Dingleline questioned whether or not advanced ROW acquisition funds could be utilized for this purchase? M. Webb stated that this type of purchase would likely be eligible, however these funds are extremely limited at this point with a lot of competition vying for a small funding source.

A. Abdalla and J. Dingleline questioned whether or not the berm in front of the Warner Creek subdivision met FHWA noise mitigation criteria and whether or not the geometrics could be altered to reduce the size of the proposed berms or if a noise wall could be utilized instead? M. Webb stated that the Warner Creek subdivision was found not to be eligible for noise mitigation based on FHWA's criteria. The placement of the earthen berms was more a context sensitive design treatment that was agreed upon by MDOT and officials from Pittsfield Township, and residents of the Warner Creek subdivision association.

K. Kowal questioned whether or not MDOT had considered any off-alignment alternatives which would minimize impacts on the Harwood farmstead and the woodlot. M. Webb stated that MDOT did evaluate several off-alignment alternatives and because of the natural features and the pace of development each of these alternatives had greater impacts than both the preferred and revised preferred alternative.

3. Field Visit: The meeting continued with a field visit to the woodlot between Platt Road and Sauk Trail (entrance to Warner Creek subdivision).
4. Follow-up: A brief discussion was held following the field visit. In general the resource agencies concurred with MDOT and felt that this revised preferred alternative was a feasible alternative. The resource agencies will expect to see the following actions from MDOT as part of its supporting documentation efforts:

- ❖ Woodlot mitigation strategy which presents several scenarios depending on what land use patterns are present when MDOT initiates the design phase of the project.
- ❖ Reassessment of the Section 7 “No Effect Determination” issued by the US Fish & Wildlife Service and determine if this classification is still appropriate.
- ❖ Inclusion of the SHPO MOA in the supporting documentation for a request for a FONSI.

5. Meeting adjourned at 11:40 p.m.

Respectfully Submitted,

Matt W. Webb

e-mail: webbma@michigan.gov

APPENDIX D
Wetland/Woodland Mitigation Site
Preliminary Site Plan

US-12
IMPROVEMENT STUDY

Saline River

834 BRAUN ROAD 14 ROAD 829

Bridgwater No. 2 Drain

Mitigation Area

Woodland Area (3.4 acres)

830 MCCOLLUM ROAD

850 ROAD

884 ALLOW 871

County Drain

Agricultural Ditch

NORTH

APPENDIX E

SHPO MOA

**MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION
AND THE MICHIGAN STATE HISTORIC PRESERVATION OFFICER
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36 CFR PART 800.6 (b) (1)
REGARDING THE RECONSTRUCTION OF US-12
EAST OF SALINE CITY LIMITS TO MUNGER ROAD
IN PITTSFIELD TOWNSHIP, WASHTENAW COUNTY, MICHIGAN**

WHEREAS, the Federal Highway Administration (FHWA) of the U.S. Department of Transportation has determined that the reconstruction of US-12 between the east city limits of Saline to Munger Road in Washtenaw County, Michigan (Project) will have an adverse effect upon the following three historic properties (Historic Properties) which appear to meet the criteria for listing in the National Register of Historic Places (NRHP):

- Valentine School at 7172 Michigan Avenue
- Harwood House at 6356 Michigan Avenue
- Boss-Schmidt House at 5138 Michigan Avenue

WHEREAS, the FHWA has consulted with the Michigan State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the Michigan Department of Transportation (MDOT) participated in the consultation and has been invited to concur in this Memorandum of Agreement (MOA);

NOW, THEREFORE, FHWA and SHPO agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effect of the Project on historic properties.

STIPULATIONS

The FHWA will ensure that the following measures are carried out:

I. RECORDATION

MDOT shall prepare photographic documentation and a historical overview of the Historic Properties according to the SHPO Documentation Guidelines attached hereto as **Attachment A**. MDOT shall ensure that all documentation is completed and accepted by the SHPO for deposit in the State Archives of Michigan prior to the initiation of construction activities that will affect the Historic Properties. The SHPO may require MDOT to also provide original copies of the documentation to appropriate local archives designated by the SHPO.

II. INTERPRETATION

In consultation with the SHPO, MDOT shall produce an educational pamphlet describing the US-12/Chicago Road history, with emphasis on the project area, the Historic Properties affected by the project, and other resources within the project area either listed in or eligible for listing in the NRHP. MDOT and the SHPO shall consult to develop a publication and distribution plan for the resulting product.

III. RELOCATION AND PRESERVATION OF THE VALENTINE SCHOOL

- A. MDOT will cooperate with and coordinate efforts to acquire and relocate the Valentine School for public use by the Pittsfield Township Commission or approved designee. This will include applying the cost of demolition and debris removal to the cost of relocating the Valentine School.
- B. MDOT shall consult with the SHPO to identify an appropriate new location for the Valentine School that will preserve those characteristics that make the Valentine School eligible for listing in the NRHP.
- C. The Valentine School shall be relocated in accordance with the approaches recommended in *Moving Historic Buildings* (John Obed Curtis, American Association for State and Local History, 1979)). In consultation with the SHPO, MDOT shall develop a written plan for the relocation of the Valentine School that follows these recommendations.
- D. The SHPO shall review and approve all plans and specifications for the relocation of the Valentine School, including placement and orientation of the building at the new location, foundation design and utility hook-ups.
- E. MDOT shall inform the owner of the Valentine School of the requirement for a historic preservation easement to be developed in consultation with the SHPO and attached to the property deed. The easement shall require the owner to follow the Secretary of the Interior's *Standards for Rehabilitation and Guidelines for the Rehabilitation of Historic Buildings* (National Park Service, 1990) in the maintenance and preservation of the Valentine School and to seek SHPO review and approval for all proposed work.

IV. LANDSCAPING AND SITE CONSIDERATIONS

- A. Boss-Schmidt House at 5138 Michigan Avenue

MDOT shall offer two replacement trees and/or shrubs for every tree and/or shrub lost as a result of the Project. Placement shall be outside MDOT Right-of-Way.

- B. Harwood House at 6356 Michigan Avenue

MDOT shall restore any trees that are impacted by the Project. Replacement trees shall match the species of trees removed.

V. AMENDMENT

Any party to this MOA may propose to the other parties that it be amended, whereupon the parties will consult in accordance with 36 CFR Part 800.6(c)(7) to consider such an amendment.

VI. DISPUTE RESOLUTION

Should the SHPO or MDOT object within 30 (thirty) days to any actions pursuant to this MOA, The FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines the objection cannot be resolved, the FHWA shall forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (Council). Within 45 (forty-five) days after receipt of all pertinent documentation, the Council will either:

- A. Provide the FHWA with recommendations, which the FHWA will take into account in reaching a final decision regarding the dispute: or
- B. Notify the FHWA that it will comment pursuant to 36CFR Part 800. 7(c), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the FHWA in accordance with 36CFR Part 800.7(c)(4) with reference only to the subject of the dispute. The FHWA's responsibility to carry out all actions under this MOA that are not subjects of the dispute will remain unchanged.

Execution of this MOA by the FHWA and the Michigan SHPO, its submission to the Council and implementation of its terms, evidence that the FHWA has afforded the Council an opportunity to comment on the Project and that the FHWA has taken into account the effects of the Project on historic properties.

FEDERAL HIGHWAY ADMINISTRATION

By: James J. Steele Date: 10/18/04
Division Administrator

MICHIGAN STATE HISTORIC PRESERVATION OFFICER

By: Brian D. Conway Date: 10/14/04
Brian D. Conway

Concur:

MICHIGAN DEPARTMENT OF TRANSPORTATION

By: Susan P. Mortel Date: 10/15/04

Susan P. Mortel

APPENDIX F

BIOLOGICAL ASSESSMENT & USFWS CORRESPONDENCE



JENNIFER GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

GLORIA J. JEFF
DIRECTOR

January 14, 2005

Mr. James J. Steele
Division Administrator
Federal Highway Administration
315 W. Allegan Street, Room 201
Lansing, Michigan 48933

Dear Mr. Steele:

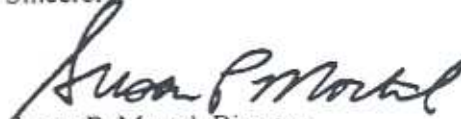
The Michigan Department of Transportation (MDOT) is requesting that the Federal Highway Administration (FHWA) amend the Finding of No Significant Impact (FONSI) that was issued on October 19, 2004, for the proposed improvements to US-12 from the city limits of Saline easterly to Munger Road in Pittsfield Township, Washtenaw County, Michigan (C.S. 81031).

After the issuance of the FONSI, MDOT learned that an informal consultation for the Indiana Bat (*Myotis sodalist*) and the Eastern Massasauga Rattlesnake (*Sistrurus catenatus catenatus*) was required under Section 7 of the Endangered Species Act for the recommended alternative for the US-12 Improvement Project. As part of the informal consultation, a biological assessment (BA) was prepared for the above named species.

Enclosed you will find a copy of the BA, along with a letter from the U.S. Fish and Wildlife Services. They concurred with the findings that the proposed action may affect, but is not likely to adversely affect, the Indiana Bat or the Eastern Massasauga Rattlesnake and would not affect on any other federally endangered or threatened species.

Based on the findings of the BA and concurrence from the U.S. Fish and Wildlife Services, we request that FHWA amend the FONSI to include these findings.

Sincerely,


Susan P. Mortel, Director
Bureau of Transportation Planning

Enclosures



IN REPLY REFER TO

United States Department of the Interior

FISH AND WILDLIFE SERVICE

East Lansing Field Office (ES)
2651 Coolidge Road, Suite 101
East Lansing, Michigan 48823-6316

January 7, 2005

Ms. GERALYN AYERS, Acting Manager
Environmental Section
Project Planning Division
Michigan Department of Transportation
P.O. Box 30050
Lansing, Michigan 48909

Re: Clarification of our letter of concurrence under section 7 of the Endangered Species Act for the U.S.-12 Improvement Project from the City of Saline to Munger Road, Pittsfield Charter Township, Washtenaw County, Michigan

Dear Ms. Ayers:

This provides clarification of our December 13, 2004 letter of concurrence under section 7 of the Endangered Species Act (Act) for the U.S.-12 Improvement Project from the City of Saline to Munger Road in Pittsfield Charter Township, Washtenaw County, Michigan. We concurred with your determination that the proposed improvements to U.S.-12 are not likely to adversely affect the Indiana bat for reasons that included our expectation that all tree clearing/removal activities will be completed by April 1, 2005. We recognize, however, your original biological assessment did not specifically indicate that tree clearing for the project would occur within this time frame. We further understand from your recent e-mail correspondence, that any project-related activities such as tree clearing will not occur prior to April 1, 2005.

Our identification of the April 1, 2005 date was an effort to establish a time frame under which we can concur with your determination. The statement mistakenly construed that the work on the project would take place this coming winter season. We regret any confusion this may have caused.

Our office is increasingly concerned over the issue of providing concurrence under section 7 of the Act for projects which may not take place for several years into the future. As you know, information on species occurrence changes continually. Over periods of several years, sites which are not currently occupied by a threatened or endangered species may become so. Whether or not a site is occupied potentially changes the effects analysis and ultimately our ability to concur.

The e-mail of December 17, 2004 from Richard Wolinski indicates that MDOT is willing to reevaluate the site and reinitiate consultation in the future as provided for in our letter once a construction date has been identified. This is acceptable to us and precludes the need for any further action on this project, at this time, as required by section 7 of the Act.

If you have any questions, please contact Jack Dingleline of this office at (517) 351-6320 or the above address.

Sincerely,

A handwritten signature in black ink, appearing to read 'C.A. Czarnecki', with a stylized flourish at the end.

Craig A. Czarnecki
Field Supervisor

cc: Federal Highway Administration, Lansing, MI (Attn: Abdelmoez Abdalla)

g: admin/archives-jan05/US12_s7concurClarification.jvd.doc



IN REPLY REFER TO

United States Department of the Interior

FISH AND WILDLIFE SERVICE

East Lansing Field Office (ES)
2651 Coolidge Road, Suite 101
East Lansing, Michigan 48823-6316

December 13, 2004

Ms. GERALYN AYERS, Acting Manager
Environmental Section
Project Planning Division
Michigan Department of Transportation
P.O. Box 30050
Lansing, Michigan 48909

Re: Request for concurrence under section 7 of the Endangered Species Act for the US-12 Improvement Project from the City of Saline to Munger Road, Pittsfield Charter Township, Washtenaw County

Dear Ms. Ayers:

This responds to your letter, dated November 17, 2004, requesting our concurrence under section 7 of the Endangered Species Act (Act) for the US-12 Improvement Project from the City of Saline to Munger Road in Pittsfield Charter Township, Washtenaw County, Michigan. We have reviewed the Biological Assessment (BA), provided with your letter and submit these comments in accordance with the Act.

The Indiana bat (*Myotis sodalis*), a federally listed endangered species, and the eastern massasauga rattlesnake (*Sistrurus catenatus catenatus*), a federal candidate species, have been identified as potentially occurring within the project area. Your analysis of the potential effects of the action on these species is discussed below:

Eastern Massasauga

The BA states that the massasauga rattlesnake has been reported consistently from Washtenaw County since 1985, although there are no historic records of occurrence within or adjacent the project corridor. In addition, no observations of the species were made during the course of field work conducted along the project corridor. Potential habitat is present, however, and the BA indicates that 1.2 acres of potential massasauga habitat will be removed as a result of the proposed action. Your evaluation also concludes that US-12 improvements may result in increased mortality of snakes crossing the highway, although there are no documented mortalities for a massasauga on this or other roads in the area. The BA states that educational materials and

written guidance will be provided at preconstruction meetings and prior to commencement of earth work in the event a massasauga is discovered in the action area.

Consultation under section 7 of the Act is not required for candidate species. Nevertheless, we appreciate Michigan Department of Transportation's consideration of potential effects to the massasauga rattlesnake and for developing conservation measures to minimize potential adverse impacts. Should a massasauga rattlesnake be discovered in the area during construction activities, we request that you contact our office.

Indiana Bat

Areas of suitable Indiana bat habitat are found within the project area, as determined by a habitat assessment conducted by Dr. Allen Kurta (Kurta, 2001) and reported in your BA. He identified areas with medium to high quality potential habitat for Indiana bats approximately 200 feet north of the proposed right-of-way. Subsequent mist-net surveys of the project area failed to detect the presence of Indiana bats, however, other bats were captured.

The BA states that the proposed project will impact 3.4 acres of potential breeding and foraging habitat for the Indiana bat. Although mist-net surveys failed to identify the presence of individuals, your BA indicates tree removal in these areas will be limited to the period between 1 October and 1 April in order to insure incidental take will not occur during project construction. You also conclude that indirect effects are unlikely because suitable Indiana bat habitat exists elsewhere in the project corridor. Cumulative effects from commercial and residential development are considered insignificant. Finally, you propose that mitigation for forested wetland (2:1 ratio) and upland (1:1 ratio) associated with Indiana bat will be provided at the wetland mitigation site located in Bridgewater Township, Washtenaw County.

Based upon the information currently available to us, we concur with your determination that the proposed improvements to US-12 are not likely to adversely affect the Indiana bat for the following reasons:

- Although Indiana bats have been recorded in the general project area, recent mist-net surveys did not provide evidence that Indiana bats are utilizing the habitat adjacent to US-12.
- Indiana bats leave southern Michigan for hibernacula in the late summer/early autumn and return in the early spring and thus are absent from southern Michigan from October until April. Should previously undetected Indiana bats occur within the project area, restricting tree clearing/removal to the period from 1 October to 1 April would avoid direct take of individuals.
- Potential foraging and roosting habitat occurs along the proposed project corridor. Given that the project site is currently unoccupied and because suitable roosting and foraging habitat occurs within the vicinity of the highway, removal of 3.4 acres of

potential habitat would have an insignificant effect on the Indiana bat. Additionally, mitigation for forested wetland (2:1 ratio) and upland (1:1 ratio) associated with Indiana bat will be provided at the wetland mitigation site located in Bridgewater Township, Washtenaw County.

- Our concurrence is based upon our expectation that all tree clearing/removal activities will be completed by 1 April 2005.

Section 9 of the Act prohibits take of a listed species; where take is defined as "...harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect...." Prohibitions of take also extend to the species habitat, when the loss of habitat is on a scale that would result in harm. Since the project area contains high quality potential habitat, there is the possibility that Indiana bats could move into habitat within the US-12 corridor before construction begins. Consequently, removal of that habitat may have effects not evaluated within this consultation. Additional analyses to determine effects would be necessary. We, therefore, recommend conducting another Indiana bat mist-net survey within 12 months prior to commencement of tree clearing or construction activities, if such activities are not completed prior to 1 April 2005. We request that you provide us with the results of such survey. If Indiana bats are found to occur within the action area, you should reinitiate consultation with our office.

This precludes the need for further action on this project as required by section 7 of the Act. If project plans change or new information about the project becomes available that indicates listed species, proposed species or critical habitat may be affected in a manner or to an extent not previously considered, you should reinitiate consultation with this office. In particular, for the reasons indicated above, if tree clearing/removal activities are not completed by 1 April 2005, then reinitiation of consultation will be necessary.

If you have any questions, please contact Jack Dingledine of this office at (517) 351-6320 or the above address.

Sincerely,



Craig A. Czarnecki
Field Supervisor

cc: Federal Highway Administration, Lansing, MI (Attn: Abdelmoez Abdalla)

g: admin/archives/dec04/US12_s7concur.jvd.doc

JENNIFER GRANHOLM
GOVERNOR



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

GLORIA J. JE
DIRECTOR

November 17, 2004

Craig A. Czarnecki
Field Supervisor
United States Department of the Interior
Fish and Wildlife Service
East Lansing Field Office (ES)
2651 Coolidge Road
East Lansing, Michigan 48823-22127

Dear Mr. Czarnecki:

Informal Consultation for Indiana Bat (*Myotis sodalist*) and Eastern Massasauga Rattlesnake (*Sistrurus catenatus catenatus*) for US-12 Improvement Project from the City of Saline to Munger Road, Pittsfield Charter Township, Washtenaw County

Enclosed is the Biological Assessment (BA) for the above named species submitted for your review and comment under Section 7(c) of the Endangered Species Act. The Michigan Department of Transportation is seeking concurrence with a finding of "May affect, not likely to adversely affect" to conclude the informal consultation process.

Your concurrence is required for inclusion in the Finding of No Significant Impact (FONSI) for this project. It will be submitted for approval in the near future.

The draft of this BA has been reviewed by Jack Dingleline. Hopefully, we have addressed the comments from your previous review. This should expedite the conclusion of this process.

If there are any questions regarding the assessment please contact Richard Wolinski at 517-335-2633. Thank you for your quick response.

Sincerely,

Geralyn Ayers, Acting Manager
Environmental Section
Project Planning Division

Enclosure

BIOLOGICAL ASSESSMENT
For
Proposed US-12 Improvement Study
City of Saline to Munger Road
Pittsfield Charter Township
Washtenaw County, Michigan

U.S. Department of Transportation
Federal Highway Administration
and
Michigan Department of Transportation

Prepared By:

Richard A. Wolinski

Richard A. Wolinski, Terrestrial and Aquatic Ecologist

11/17/04
Date

Reviewed By:

Christopher Vera

Christopher Vera, Wetland & Wildlife Ecologist

11/17/04
Date

Reviewed By:

Robert A. Owens

Robert A. Owens, Environmental Quality Specialist

11-17-04
Date

I. INTRODUCTION

Legal Requirements

The National Environmental Policy Act (NEPA) of 1969 requires Federal agencies to identify and consider the social, economic, and environmental impacts of proposed actions as part of their decision making processes. NEPA also requires Federal agencies to provide information to the public and consider their input when making decisions.

Section 7 of the Endangered Species Act (ESA) specifies the need to protect Federal Endangered, Threatened, and Proposed species. The Endangered Species Act also requires consultation with the U.S. Fish and Wildlife Service (USFWS) whenever a federal activity may affect a listed species. A Biological Assessment under Section 7(c) for Major Construction Projects is required for projects when the presence of any Endangered, or Threatened species may exist. Candidate species are not afforded protection under ESA and their inclusion in such reviews is undertaken to reduce the likelihood that they will require protection of the Act in the future.

Purpose of the Proposal

This project will improve a 6.5-mile segment of US-12 through Pittsfield Township, Washtenaw County to accommodate projected traffic volumes and to improve motorist safety.

Project Objectives

The project will improve traffic operations and motorist safety by upgrading this major arterial roadway that originates in the City of Saline and terminates at Munger Road west of Interstate 94 (I-94).

Project Location

Vicinity Map – see Figure 3.1, Study Area Natural Features (in US-12 Improvement Study Environmental Assessment and Section 4(f) Evaluation, FHWA, October 2003).

Project Description

The proposed alternative generally follows the existing US-12 alignment. The design consists of a combination of five-lane urban arterial and four-lane urban boulevard. The boulevard extends 1.4 miles, starting approximately 0.6 miles west of the State/Moon roads intersection and ending about 0.8 miles east of this same intersection.

Project Alternatives

The Recommended Alternative was chosen by Michigan Department of Transportation (MDOT) after receiving comments on the Preferred Alternative at a November 2003

public hearing. The Recommend Alternative was developed after efforts to mitigate impacts to historical resources (Section 4f) were resolved.

Recommended Alternative

The Recommended Alternative was selected because it provides a balanced solution to the area's transportation needs, minimizes impacts on the built and natural environments, and meets the purpose to improve mobility and travel capacity by widening US-12 to a five lane/four lane boulevard roadway from west of Industrial Drive in Saline to Munger Road.

II. Endangered, Threatened, Proposed, and Candidate species within the Project Area

The potential for the presence of Federally Endangered, Threatened, Proposed, or Candidate species occurring in the project area was determined via letter from the USFWS (letter of November 27, 2001), by search of the Michigan Natural Features Inventory (MNFI) county element lists (2001 and 2002), literature review, field surveys, and professional evaluation of potential habitat. Two species were identified and potential impacts are presented below (Table 1.).

Table 1. Impacts to Potential Breeding and Foraging Habitat for Listed and Candidate Species

Species Name	Alternative 1	Alternative 1-N	Preferred	Recommended
Indiana Bat	0.7 acres	0.7 acres	0.7 acres	3.4 acres
Eastern Massasauga*	1.2 acres**	1.2 acres	1.2 acres	1.2 acres

* Candidate species status, USFWS.

**Potential habitat restricted to areas associated with wetlands 21 and 22, Figure 3.1 (FHWA 2003).

Eastern Massasauga Rattlesnake (*Sistrurus catenatus catenatus*)

Introduction and Habitat Requirements

Status: Candidate species. No critical habitat has been identified within the project limits. A directed survey for reptile and amphibian species produced no new records for this species and no incidental observations were obtained during the course of other field work conducted along the project corridor (SmithGroup JJR. 2002). Suitable habitat for this species has been identified within the project area.

Analysis Bounds: Analysis area boundaries for cumulative and indirect effects analysis include sections of land within 5.0 miles of the project corridor. Direct impacts are restricted to those portions of suitable habitat that lie within the new footprint of the upgraded roadway. There are no historical records on file for the presence of this species within, or adjacent to the project corridor, and no observations of the species were

obtained during field surveys in 2002 (US-12 Improvement Study Natural Resources Technical Report, 2003).

This species prefers open cover types during its active period from May to September, and occasionally into October. Individuals use both wetland and upland areas over the annual cycle as individuals seek mates and nesting sites. Bogs, fens, open meadows, and early seral stages of upland are most often occupied.

Direct impacts to this species are by direct mortality due to interaction with vehicles on the road surface.

Movement across the existing US-12 roadway would likely result in mortality based upon existing traffic density. There is no documented mortality of this species on US-12 or other roads in the area. An increase in roadway width in this area would result in a greater probability of mortality due to increased exposure on the roadway in terms of increased distance to travel. The present condition presents a significant barrier to movement of any local population into suitable cover types north or south of the roadway in Section 28. Therefore, the increase in roadway width to accommodate projected increases in traffic density is not likely to represent a significant change in the potential successful seasonal migratory movements or dispersal opportunities if this species is still present.

Vegetative cover types that are known to provide habitat for this species consisting of scrub-shrub wetland, forested wetland, and upland edge comprise about 83.0 acres south and north of the US-12 in Section 28 and about 40.0 acres in Sections 22 and 27. Based upon the juxtaposition of cover types, agricultural land-use, and habitat patch size for this species within these and surrounding sections, it appears that effective fragmentation of the population has already taken place. The existing vegetated connections to appropriate cover types that would offer habitat for this species farther from the project corridor are also lacking. Historically, the decrease in wetland areas as a consequence of draining for agricultural use has resulted in a reduction of sufficient hydrology to maintain areas of Edwards and Houghton muck, and Pewamo clay loam that has contributed to a reduction in wetland cover types, especially wet meadow, that may have supported this species.

The Massasauga Rattlesnake has been reported consistently from other, similar, woodland and wetland areas since 1985 in Washtenaw and Lenawee counties (13 and 4 records respectively, (MNFI database). The MNFI database has no entries for this species from Monroe County to the south of the project area. The lack of sightings, or other documentation, in or near the project area suggests that local extirpation of this species has already taken place.

Efforts to avoid any possible take of an individual snake should it be discovered during the course of construction will be made via information supplied to the contractor and MDOT inspection staff. Educational materials and written guidance outlining steps to take should a snake be discovered will be provided at the preconstruction meeting and prior to the commencement of earthwork.

Anticipated indirect impacts derive from modification or destruction of habitat and further reduction in the connectivity of suitable upland and wetland habitat along the roadway. Dispersal distances of Eastern Massasauga indicate that short-distance movements are the norm for both sexes, with movements of 0.1 mile to 0.8 mile reported in the literature (in Lee and Legge, 2000). Indirect impacts are not anticipated as it is likely that a population of this species does not exist at the present time in association with wetlands 21 and 22, see Figure 3.1, US-12 Improvement Study Environmental Assessment and Section 4(f) Evaluation (FHWA 2003).

Cumulative impacts in the form of land-use changes from an expanding human population, particularly of upland cover types, has been taking place since settlement. Uplands are most prone to conversion from natural vegetation due to agricultural use and development as they are not afforded the same level of protection as are wetlands under laws enacted by the State of Michigan. Changes that alter the character of existing agricultural uses and natural vegetation in early successional plant communities are on-going. Conversion into built-up structures and associated uses based upon the local land-use zoning classification of medium density residential and commercial uses will continue. Those upland areas immediately adjacent to the roadway are likely to be developed as their value for commercial use increases due to direct access and exposure to higher volumes of traffic (and potential customers). This will further reduce any opportunity for this species to disperse across the corridor northward. Residential and commercial development consistent with existing zoning classification is on-going and is underway, with upland adjacent to the wetlands cleared around newly constructed homes within the project study area.

Indiana Bat (*Myotis sodalis*)

Introduction and Habitat Requirements

Status: Federally Endangered. No critical habitat has been identified within the project limits. Survey of suitable habitat and directed field surveys conducted based upon protocol recommended by the Indiana Bat Recovery Team.

Analysis Bounds: Analysis area boundaries for cumulative and indirect effects include an area 20 miles in radius surrounding the project corridor and at the project footprint at specific locations along the corridor where suitable habitat has been identified. National wetland inventory maps were used to determine the presence and locations of floodplain and wooded forested wetlands surrounding the project site. Historical records for this species exist based upon specimens obtained in Ann Arbor (May 1965) and Chelsea (1947), while a colony near Manchester confirms the presence of Indiana Bat at the present time (Kurta, 2001).

The Indiana Bat summers along streams and rivers in Michigan and moves to caves located to the south in Indiana, Ohio, and Missouri to over-winter. Foraging habitat by females and juveniles is limited to riparian and floodplain areas, while males will utilize

floodplain ridges and hillside forests (USFWS, 1991). Maternity colonies have been found under loose bark and in the hollows of trees associated with floodplain forests.

Status: Listed as Endangered by USFWS and Michigan Department of Natural Resources (MDNR). No individuals of this species were encountered during directed surveys, though suitable habitat suitable for foraging and roosting was identified (Kurta, 2001) about 200 feet north of the proposed right-of-way. The woodland buffer area between the existing roadway will be reduced by 110 feet at the greatest extent for road construction.

Direct impacts are restricted to those portions of suitable habitat that lie within the new footprint of the upgraded roadway (see Kurta 2002). The most likely direct impact would be to young bats incapable of flight, should a tree containing a maternity colony be removed during clearing and grubbing operations.

Direct impacts to this species are not expected to occur. Recommendations to eliminate any potential for a direct take by removal of trees large enough to offer shelter or maternity sites while the bats occupy their winter range will be undertaken as a mitigation measure. This species shows strong site fidelity to maternity and roosting sites based upon field research conducted over the breadth of its range. Regardless of the survey results, the incidental take of individuals that have been missed during the mist netting survey, or those that may move into the area of potential impact prior to initiation of construction activity is possible. To insure that such an incidental take will not take place trees that provide resources for this species within the area of impact would be removed between 1 October and 1 April. The distribution and ranking of sites that contain high and medium quality habitat are shown in Kurta 2001, Figure 1.

Indirect impacts are not anticipated. The ability of this mobile, flying mammal to seek favorable patches of habitat suitable for feeding, roosting, and breeding beyond the narrow confines of the project corridor are expected based upon their behavior. Such sites exist throughout southern Michigan along riparian corridors and forested wetland and upland that largely occupy areas well away from major roadways and other human development. These areas should provide ample opportunity for the species to maintain current population levels.

The determination of cumulative impacts to this species is problematic, but impacts are expected to be insignificant based upon the amount of habitat affected and the small number of trees to be removed. Due to a lack of information on the local distribution and numbers of bats in Washtenaw County and statewide, it is not possible to make an accurate assessment of the status of the population.

However, the projected expansion of the human population and associated land-use changes along the project corridor will continue and have the potential to influence the bat population as a consequence. Floodplain forests and forested wetlands used by this species currently have some protection under wetland protection laws, though there is no prohibition against the removal of standing vegetation unless the soil surface is disturbed

or a permit is obtained. Any wooded area used by this species in upland areas is likely to be compromised to some degree due to the ability to develop these areas for commercial and residential uses.

At a regional scale, the amount of wooded riparian habitat available in the headwaters areas of the Raisin, Huron, and Saline rivers and elsewhere in southeastern Michigan would seem to offer sufficient breeding and foraging habitat that will remain without major modification (Kurta 2001). Wetland and upland cover types known to support Indiana Bat populations with connectivity along the riparian corridor of the Raisin and Saline rivers south and west of the site suggests that the effects of the project are discountable. The identification of what appears to be unoccupied highly suitable habitat adjacent to the project corridor may be an indication that the Indiana Bat population is utilizing only the very best habitat at the present time, or that we have an incomplete understanding of their habitat requirements and toleration of disturbance effects, though other factors may be at work as well.

The interrelated action attached to resolution of the Harwood Farmstead impacts under Section 4(f) accounts for the increased impact to the wooded buffer area identified south of the area described as highly suitable bat habitat from 0.5 acres to 3.4 acres. This same buffer area, under existing land-use zoning classification, would likely be converted to residential housing in the near future. Therefore, the occupation of this area by the roadway, rather than residential housing would have the same end result in terms of alteration of the buffer zone and its ability to protect any potential bat habitat to the north.

Mitigation of project impacts for both forested wetland (at a ratio of 2:1) and upland (at a ratio of 1:1) associated with the Indiana Bat will be provided at the wetland mitigation site located in Bridgewater Township, Washtenaw County.

III. Final Determination for Proposed Project

The Selected Alternative for the US-12 Improvement Project, Pittsfield Township, Washtenaw County is designed to prevent or reduce direct effects to Endangered, Threatened, Proposed, and Candidate species or their habitat. Based upon the available information obtained from field surveys and published sources we conclude:

Indiana Bat: Implementation of the proposed activities may affect, not likely to adversely affect this species.

Eastern Massasauga Rattlesnake: Implementation of the proposed activity is not likely to jeopardize this species.

Therefore, it is my professional opinion:

- **The activities proposed for the US-12 Improvement Project, Pittsfield Township, Washtenaw County, Michigan comply with the requirements of the Endangered Species Act.**

- **There is no critical habitat within the project area, therefore actions will not jeopardize or adversely modify critical habitat of Federally listed species.**
- **All of the Endangered, Threatened, Proposed, and Candidate species and their associated suitable habitats documented within the US-12 Improvement Project limits received full consideration in the decision-making process.**
- **And that the described actions may effect but are not likely to adversely affect Indiana Bat or Eastern Massasauga Rattlesnake and would have no effect on any other Federally Endangered or Threatened Species.**

Literature Cited

Federal Highway Administration. US-12 Improvement Study Environmental Assessment and Section 4(f) Evaluation. October 2003.

Fish and Wildlife Service. 1991. Endangered and Threatened Species of the Southeastern United States (The Red Book) FWS Region 4.

Kurta, Allen. 2001. Improvement of US-12 and Habitat for Indiana Bats. (In US-12 Improvement Study Natural Resources Technical Report. June 2003).

Kurta, Allen. 2002. A Field Survey for the Indiana Bat at a Site in Pittsfield Township, Michigan, for the US-12 Improvement Study. 2002. 8 pp. (In US-12 Improvement Study Natural Resources Technical Report. June 2003).

SmithGroup JJR. 2002. US-12 Improvement Study Natural Resources Technical Report. June 2003.

Lee, Y. and J.T. Legge. 2000. Special Animal Abstract for *Sistrurus catenatus catenatus* (eastern massasauga). Michigan Natural Features Inventory, Lansing, MI. 4 pp.